



August 29, 2013

Via ECF

The Honorable John Gleeson
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: *In re Payment Card Interchange Fee and Merchant Discount Antitrust
Litigation*;
Case No.: 1:05-MD1720(JG)(JO)**

Dear Judge Gleeson:

We write on behalf of certain Blue Cross and Blue Shield entities and WellPoint, Inc. entities (collectively, “Health Insurance Objectors”) that have objected to the proposed class settlement in this case (*see* Doc. Nos. 2493-1, 2643), and that have requested to be heard at the September 12, 2013 hearing (*see* Doc. Nos. 2492 and 2645).

We write to correct a significant factual inaccuracy in Class Plaintiffs’ Reply Memorandum of Law in Further Support of Settlement Final Approval (Doc. No. 5939) (“Class Plaintiffs’ Reply”). Our objections arose, in part, from the “medical loss ratio” (or “MLR”) requirements found in section 2718 of the Public Health Service Act, enacted under section 10101(f) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119, 885 (2010) (the “ACA”). In their reply brief, Class Plaintiffs state that the MLR “aspect of the [ACA] has yet to go into effect.” Class Plaintiffs’ Reply at 82. That statement is wrong.

The MLR rules went into effect for calendar year 2011. *See* ACA § 1004(a), Pub. L. No. 111-148, 124 Stat. 119, 140 (March 23, 2010); 45 C.F.R. § 158.103 (definition of “MLR reporting year”); *id.* § 158.110(b); 75 Fed. Reg. 74864, 74868 (Dec. 1, 2010). And, in fact, some of the objecting Blue Cross and Blue Shield entities have submitted declarations to this Court that attest to their filing of reports required by the MLR provision of the ACA. *See, e.g.*, Doc. No. 2643-3, ¶ 6; Doc. No. 2643-4, ¶ 7.

We wanted to bring this error in Class Plaintiffs’ Reply to your attention prior to the September 12 hearing, and look forward to appearing before you at that time.



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Sincerely,

/s/ Adam P. Feinberg

Adam P. Feinberg,
Miller & Chevalier Chartered,
On behalf of the Blue Cross and
Blue Shield Entities

/s/ Robert N. Webner

Robert N. Webner
Vorys, Sater, Seymour and Pease LLP,
On behalf of the WellPoint, Inc. Entities

cc: All counsel of record via ECF